

OCT 9 1985

JOHN D. O'KEEFE  
ATTORNEY AT LAW  
SUITE 1113 ROBINSON BUILDING  
15TH AND CHESTNUT STREETS  
PHILADELPHIA, PENNSYLVANIA 19102  
(215) 564-2564

*Thompson*  
*Duane Marine*  
*Copy for*  
*Janet Feldstein*

September 16, 1985

Margaret Thompson  
Law Clerk  
Waste & Toxic Substance Branch  
United States Environmental Protection Agency  
Region III  
26 Federal Plaza  
New York, New York 10278

Re: Duane Marine Salvage Corporation Site  
Perth Amboy, New Jersey  
Administrative Order No. II-CERCLA-50107

Dear Ms. Thompson:

Please be advised that I represent Del Val Ink and Color, Inc. (hereinafter referred to as "Del Val"), 1301 Taylor's Lane, Riverton, N. J. 08077, (609) 829-7474, in connection with the above captioned matter. This is a petition by Del Val to be removed as a Respondent from Administrative Order No. II-CERCLA-50107 insofar as it relates to Phase II mitigation.

Del Val made the following shipments to the Duane Marine Salvage Corporation Site (hereinafter referred to as "Duane Marine"):

<u>Date</u>	<u>Waste Type</u>	<u>Container</u>	<u>Quantity</u>
2/13/79	mixed solvent	60 55 gal. drums	3300 gals.
2/13/79	water waste	16 55 gal. drums	880 gals.
2/23/79	mixed solvent	56 55 gal. drums	3080 gals.
2/23/79	water waste	12 55 gal. drums	660 gals.
		<u>144</u> 55 gal. drums	<u>7920</u> gals.

The above material was packaged in DOT approved 55 gal. drums with removal lids. It was properly manifested (see Exhibits A-1 and A-2) and shipped to Duane Marine via a N. J. approved waste-hauler, Lightman Drum Co. of Berlin, N. J.

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The analysis of the mixed solvent drums was approximately 85% solvent and 15% solid waste. The solvent was either Ethyl Alcohol, Isopropyl Acetate or Isopropyl Alcohol and the solid waste approximately 7% organic pigment and 8% organic resins. The analysis of the water waste was the same as the mixed solvent except that the solvent was water.

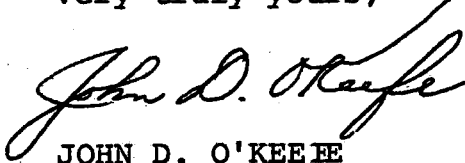
The material shipped to the Duane site was characterized to be hazardous primarily because the flash point of the solvent was 55°F. The "Draft Report Phase I Surface Waste Cleanup" dated May 14, 1985 as prepared by IT Corporation estimates a total of 2260 drums at the site of which 1250 are empty. Of the 1010 filled drums only 40 drums are of the Nonhalogenated Organic content, which is the classification of the content of the material in the Del Val Ink & Color, Inc. drums. The flash point of all liquids on site far exceeded the 55°F. flash points of Del Val's waste as shown by Table 5 of the Draft Report.

Del Val Ink & Color, Inc. contends that it is apparent from the Draft Report that its liquid waste which had a flash point of 55°F. was consumed in the fire. Further, Phase II mitigation would be inapplicable to Del Val under these circumstances inasmuch as there remains no waste occasioned by Del Val's drums.

The purpose of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9601 is to make one responsible for the result of the release or threat of release of his hazardous substance. To require Del Val to participate in the cost of Phase II Mitigation, when its waste no longer exists, would be beyond the intent of the statute.

Please contact me at (215) 564-2564 if you have any questions concerning this Petition or any schedule thereto.

Very truly yours,



JOHN D. O'KEEFE

JDO:ja

CC: Mr. Frank A. Hamel, Jr.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

IN THE MATTER OF DEL VAL INK &  
COLOR, INC., ET AL

:  
: ADMINISTRATIVE ORDER

Respondents,

: Index No. II-CERCLA-50107

Proceeding Under Section 106(a)  
of the Comprehensive Environ-  
mental Response, Compensation  
and Liability Act, 42 U.S.C.  
§9606 (a)

: AFFIDAVIT OF  
: FRANK A. HAMEL, JR.  
:

STATE OF NEW JERSEY :

SS

COUNTY OF :

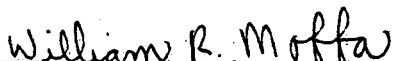
FRANK A. HAMEL, JR., being duly sworn in accordance  
with law, hereby deposes and says:

1. I am President of Del Val Ink & Color, a New Jersey corporation, doing business at 1301 Taylor's Lane, Riverton, New Jersey 08077, and am familiar with the facts that gave rise to the administrative order. I make this affidavit in support of the petition of Del Val Ink & Color, Inc. to be withdrawn as a respondent in Phase II of the above captioned administrative order.

2. The facts set forth in the accompanying petition are true and correct to the best of my knowledge and belief.

  
FRANK A. HAMEL, JR.

Sworn to and Subscribed  
before me this 26 day  
of September, 1985.

  
Notary Public